



Washington State
Department of Health
Podiatric Medical Board
Meeting Minutes
January 18, 2007

The meeting of the Washington State Podiatric Medical Board was called to order by David Bernstein, DPM, Chair, at 9:15 a.m. The meeting was held at the Clarion Hotel, 3000 176th Street, SeaTac, Washington 98188.

Board Members

Participating:

David Bernstein, DPM, Chair
Stewart Brim, DPM, Vice Chair
James Porter, DPM
Rex Nilson, DPM
Amy Wong, Public Member

Staff Participating:

Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Dori Jaffe, Assistant Attorney General
Peter Harris, Staff Attorney
Joe Mihelich, Administrative Staff

Guest:

Dave Magby, Chief Investigator,
Investigative Services Unit

Public Attendees:

Susan Scanlan, Executive Director,
Washington State Podiatric Medical
Association
Roger Strand, Washington Association of
Nurse Anesthetists
Erin Hammond

OPEN SESSION

1. Call to Order

1.1 Approval of Agenda

The agenda was approved with one modification. 2.4
Orthotics Update was added.

- 1.2 Approval of Minutes - November 9, 2006
The November 9, 2006 minutes were approved as submitted.

2. Rules Hearings

Dr. Bernstein served as presiding officer for the rules hearing. Attendees were given the opportunity to provide testimony. Mr. Strand thanked the Board for making the changes relative to CRNAs. No formal testimony was provided. Staff reported that no written testimony had been received.

2.1 CR102 WSR 06-24-134 - WAC 246-922-001 Scope of Practice
ISSUE

The rule includes Certified Registered Nurse Anesthetists (CRNA) as appropriate practitioners to independently administer general or spinal anesthetic to podiatric patients.

ACTION

The Board adopted the amendment language to WAC 246-922-001 as filed under WSR 06-24-134. It was approved for filing the CR103.

2.2 CR102 WSR 06-22-102 - WAC 246-922-510 Use of controlled substances for pain control

WAC 246-922-520 What specific guidance should a podiatric physician follow?

WAC 246-922-530 What knowledge should a podiatric physician who elects to treat chronic pain patients possess?

WAC 246-922-540 How will the board evaluate prescribing for pain?

ISSUE

The rules will establish standards for practice of pain management by podiatric physicians.

ACTION

The Board adopted the rules filed under WSR 06-22-102 with modifications to WAC 246-922-520 to answer the question by directing licensees to refer to the Board's Guidelines for Management of Pain. The CR102 was inadvertently filed with the incorrect OTS draft. Filing the CR103 with the correct language was approved.

2.3 CR102 WSR 06-24-135 - WAC 246-922-600 Sexual Misconduct
WAC 246-922-620 Abuse

ISSUE

The rules define abuse and sexual misconduct of current or former patients as inappropriate behaviors by podiatric physicians.

ACTION

The Board adopted WAC 246-922-600 and WAC 246-922-620 as filed under WSR 06-24-134. The Board approved filing the CR103.

3. Dave Magby, Chief Investigator, Investigative Services Unit (ISU)

Mr. Magby provided an overview of the operations of the Investigative Services Unit. He noted that ISU provides support to 57 professions which includes investigating complaints forwarded by the Board. Investigators have backgrounds in health care and law enforcement. Investigators conduct interviews, collect patient records and other evidence, and prepare the final report found in the investigative file. He explained the investigative process involves some unique requirements, such as, respondent notification and obtaining a whistleblower release from the complainant so their identity can be released to collect records and conduct other aspects of the investigation. Mr. Magby indicated that last year ISU conducted approximately 1400 investigations of which 18 were podiatry complaints. The podiatry cases averaged 61 days to complete, while the overall average for completing investigations was 127 days. Mr. Magby encouraged the Board to continue to identify the information needed to evaluate the allegations in the complaint. Mr. Magby also responded to questions from the board members.

4. Retired Volunteer Medical Worker License
Review and provide feedback on the draft rules language

4.1 ESHB 1850

4.2 Draft language

ISSUE

The Board reviewed the retired volunteer medical worker license draft rules language.

ACTION

The Board indicated the language appeared to be acceptable.

Staff noted that some changes may occur in this Legislative Session. A bill has already been filed that would modify ESHB 1850.

5. Licensing Issues

5.1 Continuing Education - Discuss including Internet courses as meeting the CE requirements.

5.1.1 CE Audits/approved and non-approved courses/ Action taken for non-compliance policy with proposed modifications.

5.1.2 Internet CE permitted by other professions in Washington and other state podiatry boards.

5.1.3 Criteria used by professional associations of other medical professions, i.e., AMA and AOA.

ISSUE

With the increase in the quality of Internet courses, the Board considered whether those courses would meet the criteria outlined in the continuing education rules.

ACTION

The Board discussed the merits of interacting with ones' professional peers at continuing education seminars. The Board recognized there is value to face-to-face contact and learning from experiences of others in the profession.

The Board approved modification of the policy to state that video, audio, and Internet courses which provide a self-assessment mechanism and are sponsored by one of the organizations in WAC 246-922-310 would meet the criteria for approved continuing medical education. It was determined that a maximum of 20 hours be allowed per reporting period.

6. Legislation

6.1 Proposed Athletic Training Licensure Bill - 2006
Legislation provided by the Washington State Podiatric Medical Association for discussion.

ISSUE

Dr. Scanlan provided an update on discussions that had been held with representatives of the athletic trainer bill. Revised language would remove wound care and prescribing of custom orthotics from the scope of practice.

ACTION

No action was required.

6.2 S-0466.1 Specifying the burden of proof in disciplinary actions for health professionals.

ISSUE

Since the Ongom decision was reached, it is anticipated that the burden of proof in disciplinary cases will be clarified to reflect preponderance of the evidence.

ACTION

A copy of proposed language to establish the standard for burden of proof was discussed. Mr. Maresh noted that he had not yet seen any bill related to this issue filed in the Legislature.

7. Program Manager Reports

7.1 Budget Report

Ms. Robertson provided the January 2007 budget report. The Board's expenditures continue to be maintained within the allotment.

7.2 Washington Physicians Health Program

November 2006 Statistical Information

The WPHP report was provided for informational purposes.

The Board requested Dr. Oreskovich be asked to provide an update relative to the WPHP program in late summer or fall. Mr. Maresh suggested he also be asked to show the video, Wearing Masks.

8. Executive Director Reports

8.1 Alice Ongom v. State of Washington, Department
Of Health, Office of Professional Standards

8.2 Department/Division Updates

8.3 Legislative Session Report/Updates

Mr. Maresh discussed the Ongom decision and its impact on disciplinary decisions. Eventually legislation will probably be needed to resolve the burden of proof issues.

Mr. Maresh indicated that staff was being hired to replace the licensing and disciplinary managers. He is also working on developing a RFP for a convenience contract for expert witness services. The agency's performance audit has begun. Some staff have been responding to questions and have provided documents as requested by the auditors.

A list and description of bills that have been filed with the Legislature was prepared by Ms. Jansen. Dr. Scanlan also provided a list of bills that the state association is

tracking. There has been little activity yet. Committee hearings will start soon for public testimony on the bills.

9. (Open Session) Settlement Presentations
(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)
There were no settlement presentations.

CLOSED SESSION

10. Investigative Authorizations
Four (4) reports were reviewed. Three (3) were approved for investigation. The following case was closed Below Threshold - 2006-10-0004PO.
11. Disciplinary Case Reviews - Reviewing Board Member Reports
- | <u>CASE NUMBER</u> | <u>CASE DISPOSITION</u> |
|--------------------|-------------------------|
| 2005-10-0003PO | SOA/STID |
| 2006-04-0002PO | SOC |
| 2006-04-0003PO | Legal Review |
12. Stipulation to Informal Disposition Presentations
(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)
There were no Informal Disposition presentations.
13. Compliance Reports
There were no compliance issues.
14. Open case report
The Board was provided a report of open cases.
15. Application Review
There were no applications for review.

The meeting was adjourned at 2:45 pm.

Respectfully Submitted

Arlene Robertson
Program Manager

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